

REMARKS

Claims 1 and 30 to 57 were pending in the application at the time of examination. The Specification and Claim 43 stand objected to. Claims 55 and 56 stand rejected under § 101. Various combinations of Claims 1 and 30 to 57 stand rejected for nonstatutory obvious-type double patenting. Claims 30 to 57 stand rejected under 35 U.S.C. § 112, second paragraph. Claims 1 and 30 to 57 stand rejected as anticipated.

Applicant(s) have amended the description to properly reflect the status of the U.S. Patent Applications cited therein and to delete the attorney docket numbers.

Information Disclosure Statement

Applicants respectfully note that several items in the IDS of September 9, 2003 were not considered. Applicants respectfully submit that according to the MPEP, the Examiner is required to consider these items because they were considered in the parent application. Specifically, the MPEP directs:

2. Continuation Applications, Divisional Applications, or Continuation-in-Part Applications Filed Under 37 CFR 1.53(b)

The examiner will consider information which has been considered by the Office in a parent application when examining: (A) a continuation application filed under 37 CFR 1.53(b), (B) a divisional application filed under 37 CFR 1.53(b), or (C) a continuation-in-part application filed under 37 CFR 1.53(b). A listing of the information need not be resubmitted in the continuing application unless the applicant desires the information to be printed on the patent. (Emphasis Added.)

MPEP § 609.02 A. 2., 8th Ed., Rev. 5, p. 600-148 (Aug. 2006).

Each of the references, which were not considered in the September 9, 2003 IDS, are shown on the face of U.S. Patent No. 6,633,984 that issued from U.S. Patent Application Serial

No. 09/235,157. The instant application is a continuation of U.S. Patent Application Serial No. 09/235,157. Therefore, the above section of the MPEP indicates the information will be considered by the Examiner.

Accordingly, the non-consideration is in direct contradiction to the above section of the MPEP that indicates the Examiner will consider the information. Applicants have submitted the IDS so the information will be printed on any patent that issues from the instant application. Accordingly, Applicants request that in view of the above MPEP section the information be considered since it has been considered in the parent application.

Specification Objection

The objection to the Specification stated in part:

The term "memory medium" as recited in Claim 51 et al. is not used in the specification.

Applicants respectfully traverse the objection to the specification. The specification includes the claims as originally filed. At least originally filed Claims 22 and 24 include the term and so the specification does in fact include the term. Applicants respectfully request reconsideration and withdrawal of the objection to the specification.

Claim Objection

Applicants have amended Claim 43 to remove the "said" that was the basis of the objection. Applicants respectfully request reconsideration and withdrawal of the objection to Claim 43.

Applicants note that Claim 30 is amended to correct a grammatical informality and formatted to improve readability.

35 U.S.C. § 101 Rejection

Claims 55 and 56 stand rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter for reciting an intangible medium, a carrier wave.

Applicants respectfully disagree with the USPTO's interpretation of the case law as to what constitutes statutory subject matter. To move the prosecution forward, Applicants have canceled Claims 55 and 56 as well as Claims 52 and 54. The cancellation is a matter of expedience and not an indication that Applicants in any way agree with the interpretation that such carrier waves do not recite patentable subject matter. Similarly, Applicants have amended Claims 51 and 53 to recite a tangible memory medium and thereby exclude the intangible memory medium to move the prosecution forward. Accordingly, Applicants respectfully submit that the §101 rejections are moot and so request withdrawal of the same.

35 U.S.C § 112, Second Paragraph Rejections

Claims 30 to 57 stand rejected under 35 U.S.C. § 112, second paragraph. The rejection of Claims 30, 43, 47, 51, 53, 55, 56, and 57 stated in part:

Since these claims encompass a situation where one instruction is selected from zero sets of instructions, the claims are indefinite. It is being presumed that there is at least one set of instructions.

Applicants respectfully traverse the § 112, second paragraph rejection of each of Claims 30, 43, 47, 51, 53, and 57. Applicants note that the MPEP directs:

. . . the examiner must consider the claim as a whole to determine whether the claim apprises one of ordinary skill in the art of its scope and, therefore, serves the notice function required by 35 U.S.C. 112, second paragraph, by providing clear warning to others as to what constitutes infringement of the patent.

MPEP § 2173.02, 8th Ed., Rev. 5, p. 2100-211 (Aug. 2006).

The Examiner was able to determine the scope of each of these claims so this is the initial evidence that the claims apprise one of ordinary skill in the art of their scope. Further, the reading in the rejection is incorrect when the claim is considered as a whole as required by the MPEP. For example, Claim 30 first recites in part:

said one or more program modules comprising zero or more sets of executable instructions and zero or more sets of data definitions

This portion of Claim 1 simply defines the program modules by defining a range of sets of executable instructions and a range of sets of data definitions included in any one particular program module. It fails to specify the number in a particular module as stated in the rejection. Claim 30 goes on to recite:

at least one instruction of one of said zero or more sets of instructions comprised by a program module

This simply defines a particular set in the plurality of sets "of said zero or more sets of instruction." Since one set is being defined as including at least one instruction, the plain meaning of the claim is that the number of sets is not zero. One of "zero or more" is not zero as suggested in the rejection and would not be so interpreted by one of skill in the art. Rather, "said zero or more sets of instructions comprised by a program module" simply means that the definition of this particular program module is the same as that used

elsewhere in Claim 1 and so is not some different type of program module. There is no need to presume as was done in the rejection, because the plain meaning of Claim 1 is clear and so one of skill in the art is apprised of the metes and bounds of the invention. Accordingly, Applicants request reconsideration and withdrawal of the 112, second paragraph rejection of each of Claims 30, 43, 47, 51, 53, and 57 and the claims dependent thereon.

Claims 30, 43, 47, 51, 53, 55, 56, and 57 also stand rejected under 35 U.S.C. § 112, second paragraph for reciting "one or more contexts." Applicants respectfully note that the claim initially defines "contexts," which is more than one context. Therefore, it is inherent that "contexts" include "one or more contexts." Since "contexts" is defined initially, again there is no reason for the presumption made in the rejection. Nevertheless, to move prosecution forward, Applicants have deleted "one or more" since it does not alter the scope of the claims. Accordingly, Applicants request reconsideration and withdrawal of the 112, second paragraph rejection of each of Claims 30, 43, 47, 51, 53, and 57 and the claims dependent thereon.

Obviousness-Type Double-Patenting Rejections.

Claim 1 stands rejected for nonstatutory obviousness-type double patenting in view of U.S. Patent No. 6,633,984. Claim 1 has been cancelled and so this rejection is rendered moot.

Claims 30, 47, 51, 53, and 57 stand rejected for nonstatutory obviousness-type double patenting in view Claims 1 and 2 of U.S. Patent No. 6,823,520. The rejection stated in part:

Since all programs have entry points, the accessing of such a program across a context barrier must necessarily involve the use of an entry point.

Applicants respectfully traverse the obviousness-type double patenting rejection of each of Claims 30, 47, 51, 53, and 57. To show that the claims in the instant application are obvious in view of Claims 1 and 2 of U.S. Patent No. 6,823,520, there must be some showing based on the prior art to modify Claims 1 and 2. This has not been done. Claims 1 and 2 both recited "wherein an object instance is associated with a context by recording the name of said context in a header of said object instance, information in said header inaccessible to said one or more program modules." However, this limitation is not included in Claims 30, 47, 51, 53, and 57. There has been no suggestion or teaching to modify Claims 1 and 2 to remove the association. Therefore, assuming *arguendo* that the rationale in the rejection is correct concerning entry points, the rejection failed to provide any basis for modifying Claims 1 and 2 to eliminate a feature. Accordingly, the obviousness type double patenting rejection is not well founded. Applicants respectfully request reconsideration and withdrawal of the obviousness-type double patenting rejection of each of Claims 30, 47, 51, 53, and 57 in view of Claims 1 and 2 of U.S. Patent No. 6,823,520.

Claims 30, 47, 51, 53, and 57 stand rejected for nonstatutory obviousness-type double patenting in view Claims 1 to 4 of U.S. Patent No. 6,907,608. The rejection stated in part:

Since all programs have entry points, the accessing of such a program across a context barrier must necessarily involve the use of an entry point.

Applicants respectfully traverse the obviousness-type double patenting rejection of each of Claims 30, 47, 51, 53, and 57. To show that the claims in the instant application are obvious in view of Claims 1 to 4 of U.S. Patent No. 6,907,608,

there must be some showing based on the prior art to modify Claims 1 to 4. A sufficient showing has not been made.

Each of Claims 1 to 4 recite "a global data structure for permitting one program module to access information from another program module by bypassing said context barrier." However, this limitation is not included in Claims 30, 47, 51, 53, and 57. There has been no citation to a suggestion or teaching to modify Claims 1 to 4 to eliminate the global data structure. Therefore, assuming *agruendo* that the rationale in the rejection is correct concerning entry points, the rejection failed to provide any basis for modifying Claims 1 to 4 to eliminate a feature and replace that feature with an entry point object. Accordingly, the obviousness type double patenting rejection is not well founded. Applicants respectfully request reconsideration and withdrawal of the obviousness-type double patenting rejection of each of Claims 30, 47, 51, 53, and 57 in view Claims 1 to 4 of U.S. Patent No. 6,907,608.

Claims 30 to 51, 53, and 57 stand rejected for nonstatutory obviousness-type double patenting in view Claim 1 of U.S. Patent No. 6,922,835. The rejection stated in part:

. . . all of the limitations of the instant application are anticipated by the claims of the '835 patent.

Applicants respectfully traverse the obviousness-type double patenting rejection of each of Claims 30 to 51, 53, and 57. To show that the claims in the instant application are obvious in view Claim 1 of U.S. Patent No. 6,922,835, there must be some showing based on the prior art to modify Claim 1. This has not been done.

Claim 1 recites "one context having access to all program modules without context barrier constraints." However, this limitation is not included in Claims 30, 47, 51, 53, and 57.

There has been no citation to a suggestion or teaching to modify Claim 1 to eliminate this context. There also has been no showing of how to replace such a context with an entry point object. The rejection failed to provide any basis for modifying Claim 1. Accordingly, the obviousness type double patenting rejection is not well founded. Applicants respectfully request reconsideration and withdrawal of the obviousness-type double patenting rejection of each of Claims 30 to 53 and 57 in view Claim 1 of U.S. Patent No. 6,922,835.

Claim 1 stands rejected for nonstatutory obviousness-type double patenting in view of U.S. Patent No. 7,093,122. Claim 1 has been cancelled and so this rejection is rendered moot.

Claims 30 to 51, 53, and 57 stand provisionally rejected for nonstatutory obviousness-type double patenting in view Claims 1 and 23 to 50 of U.S. Patent Application No. 10/995,926. The rejection stated in part:

. . . since all programs have entry points, the accessing of such a program across a context barrier must necessarily involve the use of an entry point.

Applicants respectfully traverse the obviousness-type double patenting rejection of each of Claims 30, 47, 51, 53, and 57. To show that the claims in the instant application are obvious in view Claims 1 and 23 to 50 of U.S. Patent Application No. 10/995,926, there must be some showing based on the prior art to modify Claims 1 and 23 to 50. This showing has not been made.

For example Claim 1 of U.S. Patent Application No. 10/995,926 recites "a global data structure for permitting one program module to access information from another program module by bypassing said context barrier." However, this limitation is not included in Claims 30, 47, 51, 53, and 57 in the instant application. There has been no citation to a suggestion or teaching to modify Claim 1 of U.S. Patent

Application No. 10/995,926 to eliminate the global data structure. Therefore, assuming arguendo that the rationale in the rejection is correct concerning entry points, the rejection failed to provide any basis for modifying Claim 1 to eliminate a feature. Each of the other claims of U.S. Patent Application No. 10/995,926 includes a global data structure. Accordingly, the obviousness type double patenting rejection is not well founded. Applicants respectfully request reconsideration and withdrawal of the provisional obviousness-type double patenting rejection of each of Claims 30 to 51, 53, and 57 in view of Claims 1 and 23 to 50 of U.S. Patent Application No. 10/995,926.

Claims 30 to 51, 53, and 57 stand provisionally rejected for nonstatutory obviousness-type double patenting in view Claims 1 and 30 to 57 of U.S. Patent Application No. 10/996,266. The rejection stated in part:

. . . since all programs have entry points, the accessing of such a program across a context barrier must necessarily involve the use of an entry point.

Applicants respectfully traverse the obviousness-type double patenting rejection of each of Claims 30, 47, 51, 53, and 57. To show that the claims in the instant application are obvious in view Claims 1 and 30 to 57 of U.S. Patent Application No. 10/996,266, there must be some motivation to modify Claims 1 and 30 to 57. A conclusory statement about entry points fails to provide such a motivation. Moreover, the rejection has failed to establish that the entry point mechanism would even work, because in the prior art such a mechanism was usable only within a context. Accordingly, there must be some showing and motivation of why of one of skill in the art would know that the context barrier of the Claims of U.S. Patent Application No. 10/996,266 would work with such a mechanism. The only basis for the conclusory statement in the

rejection is Applicants' claims and not any motivation or teaching based on the prior art. Moreover, the other patents cited demonstrate that an entry point object is not required in some embodiments. Accordingly, the obviousness type double patenting rejection is not well founded. Applicants respectfully request reconsideration and withdrawal of the provisional obviousness-type double patenting rejection of each of Claims 30 to 51, 53, and 57 in view Claims 1 and 30 to 57 of U.S. Patent Application No. 10/996,266.

§ 102(b) Rejections

Claims 30 to 51, 53, and 57 stand rejected under 35 U.S.C. § 102(b) as being anticipated by WIPO Patent Publication No. W/O 97/06516, hereinafter referred to as De Jong.

Applicants respectfully traverse the anticipation rejection of each of Claims 30 to 51, 53, and 57. While De Jong describes the use of multiple execution contexts on a smart card, De Jong fails to suggest or describe either the context barrier or the entry point objects recited in these claims. In particular, De Jong stated:

Authentication and data protection are thus made an integral part of the command execution providing better security than obtainable in current systems e.g. smart cards.

De Jong, Page 11, lines 5 to 7.

Command execution is controlled by the operating system and so any communication is through commands processed by the operating system and not across a context barrier via an entry point object as in the instant Claims. De Jong makes this clear:

First of all, it allows the execution of application specific program code in a smart card without the need to

thoroughly examine the code for potential threats to the security of data stored for other applications. As the access conditions which are stored with the data on the card are enforced by the card operating system without possibility of outside interference during execution of application code, a multi application card scheme does not need a program code vetting authority. Such authority is the only way to allow a private code execution facility in traditional smart cards. (Emphasis Added)

De Jong, Page 13, lines 17 to 25.

Storing information with the data and enforcing the access conditions for that data by the operating system is fundamentally different from the entry point object and context barrier in each of Claims 30 to 51, 53, and 57. Applicants respectfully request reconsideration and withdrawal of the anticipation rejection of each of Claims 30 to 51, 53, and 57.

Claims 30 to 51, 53, and 57 remain in the application. Claims 30, 43, 47, 51, 53 and 57 have been amended. Claims 1, 52 and 54 to 56 were canceled. Claims 2 to 29 were previously cancelled. For the foregoing reasons, Applicant(s) respectfully request allowance of all pending claims. If the Examiner has any questions relating to the above, the Examiner is respectfully requested to telephone the undersigned Attorney for Applicant(s).

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on July 13, 2007.



Attorney for Applicant(s)

July 13, 2007
Date of Signature

Respectfully submitted,



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